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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,131	06/20/2001	F. David Stallworth	BS00-052	2467
38516	7590	08/19/2005	EXAMINER	
SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519			LAYE, JADE O	
			ART UNIT	PAPER NUMBER

2617

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/884,131	STALLWORTH, F. DAVID	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jade O. Laye	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 30-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 44-48 is/are rejected.
- 7) ☒ Claim(s) 47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/4/01</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

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### ***Election Without Traversal***

1. Applicant's election of Claims 1-29 and 44-48 ("Group I") in the reply filed on 6/24/05 is acknowledged. Because applicant did not distinctly and specifically point out any supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 10/04/01 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the new title contain a reference to "geography" or "geographical."

### ***Claim Objections***

4. Claim 47 is objected to because of the following informalities: The phrase "...the web site..." lacks antecedent basis.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1-6, 9, 11-13, 15, 16, and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Discovery Channel Non-Patent Literature (DNPL) in view of Hendricks et al. (US Pat. No. 5,659,350).

Claim 1 recites a system for delivering media content comprising:

- (a) a producer producing content related to a specific type of geographic terrain; and
- (b) a channel producer that receives the content, aggregates the content into a bundle of content and transmits the bundle of content within and outside of the specific type of geographic terrain.

As to sub-element (a), the DNPL discloses the production of content, which is related to a specific region. More specifically, on page 4, the DNPL discloses a 1991 Discover Channel Production named "In Celebration of Trees," which reports on various geographic terrains such as the Pacific Northwest, Florida Everglades, and the Great Sonoran Desert. But, the DNPL fails to disclose the limitations of sub-element (b). However, within the same field of endeavor, Hendricks et al disclose a broadcast system (i.e., channel producer), which aggregates content into packages (i.e., bundle of content), and transmits said packages throughout a nationwide distribution network. (Abstract; Col. 2, Ln. 41-49; Col. 3, Ln. 5-57; Col. 6, Ln. 1-24; Col. 7, Ln. 10-38; Col. 8, Ln. 38-46). The content would be broadcast "within and outside" of the geographic region because Hendricks' nationwide system is capable of transmitting data to the Florida Everglade area, as well as other locations outside of Florida. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the disclosure of the DNPL and the system of Hendricks in order to provide various educational and informative programming to a broader range of subscribers.

Claim 11 corresponds to the system claim 1. Thus, it is analyzed and rejected as previously discussed.

Claims 12 and 16 are encompassed within the limitations/cited art of Claim 1. (As to Claim 12, Hendricks broadcasts audiovisual programming, thus reading upon the limitations directed to audio and video content of Claim 12.) Thus, each is analyzed and rejected as previously discussed.

As to Claim 2, it is inherent the Discover Channel must transmit the programming to the broadcaster, who then packages (as disclosed under Claim 1) and transmits the programming.

As to Claim 3, Hendricks et al further disclose the use of a cable television operator. (refer to cited portions used to reject claim 1). Accordingly, the combined teachings of the DNPL and Hendricks contain all limitations of Claim 3.

As to Claim 4, Hendricks further teaches the system distributes programming nationally. (Col. 2, Ln. 41-43). Accordingly, the combined teachings of the DNPL and Hendricks contain all limitations of Claim 4.

As to Claim 5, Hendricks further discloses the use of satellite transmissions. (Col. 6, Ln. 1-12). Accordingly, the combined teachings of the DNPL and Hendricks contain all limitations of Claim 5.

As to Claim 6, the DNPL discloses various types of geographical programming related to mountain terrains (i.e., Everglades), coastal terrains (i.e., Pacific Northwest), and desert terrains (i.e., Great Sonoran Desert). (cited under claim 1). Accordingly, the combined teachings of the DNPL and Hendricks contain all limitations of Claim 6.

Claim 13 corresponds to the system Claim 6. Thus, it is analyzed and rejected as previously discussed.

As to Claim 9, Hendricks further teaches the system broadcasts various programs (i.e., audio and video) via satellite transmissions. (refer to rejection of Claim 5). Accordingly, the combined teachings of the DNPL and Hendricks contain all limitations of Claim 9.

Claim 15 corresponds to the system Claim 9. Thus, it is analyzed and rejected as previously discussed.

The limitations of Claim 22 are encompassed within the limitations of Claim 1 and 6. Thus, it is analyzed and rejected as discussed therein.

The limitations of Claim 23 are encompassed within the limitations of Claim 5. Thus, it is analyzed and rejected as discussed therein.

The limitations of Claims 24 and 25 are encompassed within the limitations and rejections of Claims 9 and 6, respectively. Thus, each is analyzed and rejected as discussed therein.

As to Claim 26, the DNPL further discloses the production of various programming related to various genres. (entire document). The limitations of Claim 26 are obvious variants of the DNPL's programming because there are any number of programs which *could* be provided by the Discovery Channel. Accordingly, the combined teachings of the DNPL and Hendricks contain all limitations of Claim 26.

5. Claims 7, 8, 10, 14, 17-21, 27-29, and 44-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over the DNPL in view of Hendricks et al as applied to claim 1 above, and further in view of Carr. (US Pat. Pub. No. 2003/0133043).

Claim 7 recites the system of Claim 1, wherein the channel producer produces additional programs related to the geographic terrain and includes the additional programs in the bundle of content. As discussed above, the combined teachings of the DNPL and Hendricks contain all limitations of Claim 1, but fail to disclose the limitations of Claim 7. However, within the same field of endeavor, Carr discloses a similar system which transmits ancillary (i.e., related) programming along with regular broadcast programming. (Abstract; Pars. [0001-0005]). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of

Applicant's invention to combine the disclosure of the DNPL, Hendricks, and Carr, thereby providing a user with other programming related to those programs said user is interested in.

As to Claim 8, Carr further discloses the use of an Internet based transmission system. (Par. [0016]). Accordingly, the combined teachings of the DNPL, Hendricks, and Carr contain all limitations of Claim 8.

Claim 14 corresponds to Claim 8. Thus, it is analyzed and rejected as previously discussed.

As to Claim 10, Carr further teaches the system transmits data via a computer network content provider (i.e., Internet). (Par. [0016-0018]). *Note:* The Examiner considers Carr's Internet transmission system to read upon Applicant's website and internet service provider. Accordingly, the combined teachings of the DNPL, Hendricks, and Carr contain all limitations of Claim 10.

Claim 17 is encompassed by Claim 10. Thus, it is analyzed and rejected as previously discussed.

As to Claim 18, the combined teachings disclose the provision of content only relating to the specific type of geographic region. For example, if the user requests a program about the Florida Everglades and also requests ancillary data, this data (i.e., bundle of content) would only relate to that specific geographical region. Accordingly, the combined teachings of the DNPL, Hendricks, and Carr contain all limitations of Claim 18.

The limitations of Claim 19 are encompassed within the limitations of Claims 1 and 18. Thus, it is analyzed and rejected as discussed therein.



The limitations of Claim 20 are disclosed within the limitations of Claim 2. Thus, it is analyzed and rejected as discussed therein.

The limitations of Claim 21 mirror those of Claim 6. Thus, it is analyzed and rejected as discussed therein.

The limitations of Claim 27 are encompassed within the limitations of Claims 1, 8, and 10. Thus, it is analyzed and rejected as discussed therein.

The limitations of Claims 28 and 29 are encompassed within the limitations of Claim 10. Thus, it is analyzed and rejected as discussed therein.

The limitations of Claim 44 correspond to those of Claim 1, adding an additional limitation addressing receiving communications from viewers that initiate activities related to said geographic terrain. As to this limitation, Carr discloses a user is allowed to request and/or order ancillary programming related to various programming. (disclosed under Claims 7 and 18). Accordingly, the combined teachings of the DNPL, Hendricks, and Carr contain all limitations of Claim 44.

The limitations of Claim 45 correspond to those of Claim 6. Thus, it is analyzed and rejected as previously discussed.

As to Claim 46, Hendricks disclose a cable communication network. (disclosed under claim 1). Accordingly, the combined teachings of the DNPL, Hendricks, and Carr contain all limitations of Claim 46.

The limitation of Claim 47 is encompassed within the rejection of Claim 10. Thus, it is analyzed and rejected as discussed therein.

As to Claim 48, Carr further teaches the provision of information relating (i.e., about) the program being broadcast. (cited under rejection of Claim 7). Accordingly, the combined teachings of the DNPL, Hendricks, and Carr contain all limitations of Claim 48.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


- a. Gill, III (US Pat. Pub. No. 2002/0142750) discloses a STB which displays content specific to a local area.
- b. Hendricks et al (US Pat. No. 6,463,585) disclose a system which distributes targeted programming.
- c. Hendricks et al (US Pat. No. 6,539,548) disclose a system for packaging television programming.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye  
August 16, 2005.

  
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